



Bart L. Graham
Commissioner

State of Georgia
Department of Revenue

Frank O'Connell
Director

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1800 Century Boulevard
Atlanta, Georgia 30345
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NOTICE

(Notice ATD 2010-4)

**RE: Proposed Rules to the Department of Revenue, Alcoholic Beverages,
Chapter 560-2-4.**

TO ALL INTERESTED PERSONS AND PARTIES:

In compliance with O.C.G.A. § 50-13-4, the Georgia Department of Revenue gives notice that it proposes to amend Chapter 560-2-4 of the Rules and Regulations of the State of Georgia by proposing:

- 560-2-4-.01, entitled "Wholesaler; Additional Requirements."
- 560-2-4-.02, entitled "Special Charges."
- 560-2-4-.03, entitled "Transportation of Distilled Spirits; Vehicle Requirements."
- 560-2-4-.04, entitled "Transportation of Distilled Spirits; Limitations."
- 560-2-4-.05, entitled "Trade Practices – Inventory Rotations; New Brands; Displays and Bins."
- 560-2-4-.06, entitled "Sale Limitation; Delivery."
- 560-2-4-.07, entitled "Wholesaler Price Lists for Alcoholic Beverages."
- 560-2-4-.08, entitled "Inventories."
- 560-2-4-.09, entitled "Audits; Assignment of Auditors; Due Cause."
- 560-2-4-.10 entitled "Requirements for Salespersons and Representatives of Wholesalers."
- 560-2-4-.11, entitled "Warehouse – Hub and Spoke Operations."

Attached with this notice are exact copies and synopses of the proposed Rules. The proposed Rules are being adopted under the authority of O.C.G.A. §§ 3-2-2, 3-2-6, 3-2-33, 3-2-35, 3-3-27.1, 3-4-26, 3-4-152, 3-5-31 and 3-6-25.1.

The Department of Revenue shall consider the adoption of the above-referenced proposed Rules at 10:00 a.m., on Monday, March 29, 2010 in Suite 15200 of the Department's headquarters at 1800 Century Blvd. NE, Atlanta, GA 30345-3205.

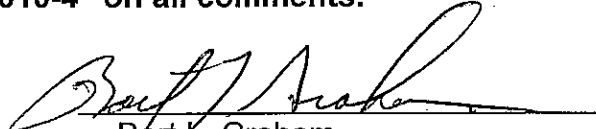
The Department must receive all comments regarding the above-referenced proposed Rules from interested persons no later than 10:00 a.m. on Monday, March 29, 2010.

Written comments must be sent to: Commissioner, Georgia Department of Revenue, 1800 Century Blvd. NE, Suite 15300, Atlanta, GA 30345-3205.

Electronic comments must be sent to regcomments@dor.ga.gov.
Facsimile comments must be sent to (404) 417-6651.

Please reference "Notice Number ATD 2010-4" on all comments.

Dated: February 22, 2010



Bart L. Graham
Commissioner
Department of Revenue

SYNOPSIS

**RULES
OF
DEPARTMENT OF REVENUE
ALCOHOL AND TOBACCO DIVISION**

**CHAPTER 560-2-4
WHOLESALE**

**560-2-4-.01 Wholesaler – Additional Requirements of Licensee –
Wholesaler.**

- This Rule provides for a wholesaler to provide a copy of a deed, or lease agreement for the proposed licensed premises along with the application.
- This Rule provides for grammatical changes.
- This Rule was adopted in 2007.

**RULES
OF
DEPARTMENT OF REVENUE
ALCOHOL AND TOBACCO DIVISION**

**CHAPTER 560-2-4
WHOLESALE**

**560-2-4-.01 Wholesaler; Additional Requirements
of Licensee - Wholesaler.**

(1) A person applying for a license as a Wholesaler shall, in addition to providing the information required by these regulations, provide the Commissioner with:

(a) A copy of the deed or purchase contract for the proposed licensed Premises, if the licensed Premise is owned by the applicant;

(b) A copy of applicant's lease agreement for the licensed Premises if the proposed license Premises is not owned by the applicant;

1. The term of the lease shall not be less than the term of the license sought by applicant.

(c) Applicant's scheduled hours and days of operation including the hours and days when the licensed location is open and staffed.

(2) The Wholesaler shall:

(a) Maintain all inventory records at the licensed Premises for no less than three (3) years;

(b) Maintain all Alcoholic Beverages separately from all other products of the Wholesaler or from the products of any other parties sharing the facility;

1. Any separate location shall be a secured location under the custody and control of only the applicant, its agent, or employees.

(c) Maintain and have custody and control over direct access from outside the facility into the licensed Premises.

Authority: O.C.G.A. § 3-2-2.

PROPOSED

SYNOPSIS

**RULES
OF
DEPARTMENT OF REVENUE
ALCOHOL AND TOBACCO DIVISION**

**CHAPTER 560-2-4
WHOLESALE**

560-2-4-.02 Special Charges – Wholesaler.

- This Rule provides for delivery charges a wholesaler may charge a retailer for small quantities of alcoholic beverages.
- This Rule provides for grammatical changes.
- This Rule was adopted in 2007.

**RULES
OF
DEPARTMENT OF REVENUE
ALCOHOL AND TOBACCO DIVISION**

**CHAPTER 560-2-4
WHOLESALE**

560-2-4-.02 Special Charges - Wholesaler.

(1) Delivery Charges: When a shipment to a Retailer or Retail Consumption Dealer consists only of an order for the delivery of Alcoholic Beverages of less than one case of a single or an assortment of brands, the Wholesaler may charge the Retailer or Retail Consumption Dealer a special delivery charge of no more than twenty dollars (\$20.00) for that delivery.

(2) The amount of a delivery charge shall be the same as applied to all of the Wholesaler's Retailers and/or Retail Consumption Dealers for shipments of less than one case.

(3) All special charges, including fuel surcharges shall be shown on invoices to the Retailer or Retail Consumption Dealer.

Authority: O.C.G.A. § 3-2-2.

SYNOPSIS

RULES OF DEPARTMENT OF REVENUE ALCOHOL AND TOBACCO DIVISION

CHAPTER 560-2-4 WHOLESALE

560-2-4.03 Transportation of Distilled Spirits; Delivery Vehicle Requirements – Wholesaler.

- This Rule provides for the requirement that movement of alcoholic beverages through Georgia must be done by common carrier.
- This Rule provides some exceptions to this Rule.
- This Rule provides for grammatical changes.
- This Rule was amended in 2007.

**RULES
OF
DEPARTMENT OF REVENUE
ALCOHOL AND TOBACCO DIVISION**

**CHAPTER 560-2-4
WHOLESALE**

**560-2-4.03 Transportation of Distilled Spirits;
Vehicle Requirements - Distilled Spirits.**

(1) Except for military deliveries as provided in Rule 560-2-15.03 of these regulations and except for emergency movements as provided in Rule 560-2-2.16 of these regulations, all transportation of Distilled Spirits from one point within Georgia to another within Georgia shall be by Carrier unless otherwise provided for in this Section.

(2) A licensed Manufacturer may transport its product to a Wholesaler under the same provisions as set forth in this Regulation for a licensed Wholesaler.

(3) A licensed Wholesaler may only transport Alcoholic Beverages in vehicles owned or leased by that Wholesaler.

(a) An Alcoholic Beverage Wholesaler may also transport Alcoholic Beverages in vehicles owned or leased and operated by a Wholesaler's employees.

(b) Any vehicle used to transport Alcoholic Beverage, whether owned by the Wholesaler or by an employee of that Wholesaler, shall be properly identified.

1. Proper identification shall include the Wholesaler's trade name or state license number in a conspicuous place on each side of the vehicle.

2. The lettering for that identification shall not be less than two (2) inches in height and not less than one (1) inch in width, and clearly spaced so as to be clearly visible when read from a reasonable distance.

Authority O.C.G.A. § 3-2-2, 3-4-153.

SYNOPSIS

RULES OF DEPARTMENT OF REVENUE ALCOHOL AND TOBACCO DIVISION

CHAPTER 560-2-4 WHOLESALE

560-2-4-.04 Transportation of Distilled Spirits; Limitations - Wholesaler.

- This Rule provides for limitations on the delivery of distilled spirits.
- This Rule provides that a licensed wholesaler shall not transport, or caused to be transported, any distilled spirits to any point outside this State without the special approval of the Commissioner.
- This Rule provides for grammatical changes.
- This Rule provides for changes in the Code.
- This Rule was amended in 1993.

**RULES
OF
DEPARTMENT OF REVENUE
ALCOHOL AND TOBACCO DIVISION**

**CHAPTER 560-2-4
WHOLESALE**

**560-2-4-.04 Transportation of Distilled Spirits;
Limitations - Wholesaler.**

(1) Transportation of Distilled Spirits shall be made on any day except Sundays and each shipment shall be accompanied by an invoice or itemized list showing in detail the number of cases, the size of containers, type, brand and price of Distilled Spirits included in the shipment and the point of origin and the point of destination.

(2) No licensed Wholesaler shall transport, or cause to be transported, any Distilled Spirits to any point outside of Georgia without the special approval of the Commissioner.

Authority: O.C.G.A. §§ 3-2-2, 3-4-153.

SYNOPSIS

RULES OF DEPARTMENT OF REVENUE ALCOHOL AND TOBACCO DIVISION

CHAPTER 560-2-4 WHOLESALE

560-2-4-.05 Trade Practices – Inventory Rotations; New Brands; Displays and Bins - Wholesaler.

- This Rule provides for the manner in which a wholesaler may deliver alcoholic beverages and move inventory around during delivery.
 - This Rule provides for grammatical changes.
 - This Rule was amended in 2008.
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**RULES
OF
DEPARTMENT OF REVENUE
ALCOHOL AND TOBACCO DIVISION**

**CHAPTER 560-2-4
WHOLESALER**

**560-2-4-.05 Trade Practices – Inventory Rotations;
New Brands; Displays and Bins - Wholesaler.**

(1) No Wholesaler, or anyone acting on its behalf, shall alter, disturb, move, rearrange, or remove any Alcoholic Beverage within any Premise of a Retailer or Retail Consumption Dealer, except:

(a) In a retail business where a Malt Beverage Wholesaler has been assigned specific cooler and/or shelf space, the Malt Beverage Wholesalers may affix the price, as designated by the Retailer, and place its Brand Label in an assigned specific cooler and/or shelf space;

1. Wholesaler personnel cannot subsequently change or alter the retail price information affixed to Alcoholic Beverages at time of delivery.

(2) A Malt Beverage Wholesaler may rotate its inventory while stocking its assigned brand label within the Premise of a Retailer including storerooms, product displays, warm shelves, and coolers.

(3) Upon introduction of a new Brand Label for distribution and sale in Georgia, or within a Wholesaler's sales territory, Wholesalers, at the request of a Retailer or Retail Consumption Dealer, may assist in rearranging available cooler and/or shelf space which has been previously assigned to the Wholesaler.

(a) This service is permitted only within sixty (60) calendar days of date of receipt of first shipment of the Brand Label by

the Wholesaler and is limited to the rearranging of the Wholesalers' designated brands labels.

(4) Permitted sales Representatives of Wholesalers, Brokers, Importers, and Manufacturers may deliver generic point-of-sale displays and bins to Retailers provided such displays are made available to all Retailers and Retail Consumption Dealers on equal terms.

(5) The Wholesaler **may** construct displays and bins on the Premises of a Retailer or Retail Consumption Dealer.

(a) These are allowed as part of the Wholesaler's marketing function;

(b) The construction or setup of displays and bins may include initially stocking the display with Alcoholic Beverages.

(c) Any further resets of Alcoholic Beverages associated with the display must be as prescribed under Regulation 560-2-2-17.

(6) No Wholesaler, Broker, Importer, Manufacturer, or any of their employees or agents shall alter, disturb, block, or in any way impede the property of any other Wholesaler or the products or displays relating to products offered by other Wholesalers.

(7) Wholesalers are not permitted to re-shelve Alcoholic Beverages contained in a display or bin.

(8) Except as provided in Paragraph 3 of this regulation, all services authorized to be performed by a Wholesaler on or within the Premises of a Retailer or Retail Consumption Dealer must be performed within five (5) business days (excluding state holidays and Sunday) after the date of delivery by the Wholesaler, its employees, agents, or contractors.

(a) Wholesalers shall maintain written copies of their schedules for a subsequent period of three calendar years and make such schedules available to the Commissioner upon request.

Authority: O.C.G.A. §§ 3-2-2, 3-2-6.

SYNOPSIS

RULES OF DEPARTMENT OF REVENUE ALCOHOL AND TOBACCO DIVISION

CHAPTER 560-2-4 WHOLESALE

560-2-4-.06 Sale Limitation; Delivery - Wholesaler.

- This Rule provides for purchase of delivery of alcoholic beverages by a wholesaler.
- This Rule provides for grammatical changes.
- This Rule was amended in 2007.

**RULES
OF
DEPARTMENT OF REVENUE
ALCOHOL AND TOBACCO DIVISION**

**CHAPTER 560-2-4
WHOLESALE**

560-2-4-.06 Sale Limitation; Delivery - Wholesaler.

(1) Licensed Wholesalers shall sell only to Georgia Wholesalers, Importers, Retailers, or Retail Consumption Dealers holding a valid license.

(2) Alcoholic Beverages shall only be delivered to the Premises of such Retailers or Retail Consumption Dealers by a vehicle leased, owned, or authorized by these regulations and operated by a Wholesaler with a proper state-issued license or permit to make sales and deliveries within the municipality or county in which the sale and delivery occurs.

(3) Alcoholic Beverages sold shall not be received, stored, or delivered to any other place than the Premises for which a Retailer or Retail Consumption license has been issued except as otherwise permitted under these regulations.

(4) It shall be a violation of these regulations for any Wholesaler to sell or deliver Brands of Alcoholic Beverages in a territory designated to another Wholesaler for such Brands.

Authority: O.C.G.A. § 3-2-2.

SYNOPSIS

RULES OF DEPARTMENT OF REVENUE ALCOHOL AND TOBACCO DIVISION

CHAPTER 560-2-4 WHOLESALE

Substantive Changes have been made to this Rule.

560-2-4-.07 Wholesaler Price Lists for Alcoholic Beverages – Wholesaler.

- This Rule provides that every licensed Wholesaler must post a price list electronically with the Commissioner.
- This Rule provides that the price list must include a list of all Alcohol Types, Brands, Brand Labels and sizes of distilled spirits that are being handled by the licensed Wholesaler for each designated sales territory.
- This Rule provides that prices are effective at the beginning of the business day on the Monday following the date of posting, and that the price shall remain until amended.
- This Rule provides the regulations for offering quantity discounts for distilled spirits, including that such quantity discounts be offered to all Retailers and Retail Consumption Dealers in the Wholesaler's sales territory.
- This Rule provides for grammatical changes.
- This Rule was amended in 2008.

**RULES
OF
DEPARTMENT OF REVENUE
ALCOHOL AND TOBACCO DIVISION**

**CHAPTER 560-2-4
WHOLESALE**

**560-2-4-.07 Wholesaler Price Lists for Alcoholic
Beverages - Wholesaler.**

(1) Every licensed Wholesaler shall submit and keep an updated master price list on Department Form ATT-38, or similar computer printout containing the same information for all Alcoholic Beverage types, electronically at ATDIV@dor.ga.gov.

(2) All prices on the Master price list shall include federal, state, county and municipal taxes.

(a) No licensed Wholesaler shall make any sale of Alcoholic Beverages for any price other than the price posted, either for more than such posted price or for less than such price, except that sales may be made, less state tax, to persons entitled to exemption from such tax.

(3) A Wholesaler shall post prices every thirty (30) days even if no change in price has occurred.

(4) Prices may not be amended within a period of less than thirty (30) days from the previous effective date of posting.

(5) All prices shall be in effect at the beginning of the business day on the Monday following the date of posting and shall remain in effect until amended.

(6) Every Wholesaler, or Wholesaler employee, when calling on Retailer or Retail Consumption Dealer for the purpose of conducting business, shall have in their possession, and available to the Licensee, prices as listed pursuant to this Regulation.

(7) Quantity discounts, including cash or merchandise, may be listed separately at any time subject to the provisions of Section (4) of this Regulation.

(a) Quantity discounts shall be for the same Alcohol Type and Brand as required to be purchased to participate in the quantity discount listed.

(b) Quantity discounts as provided for may not be used as a device or subterfuge to circumvent the provisions of Rule 560-2-2-.13.

(c) The quantity discount price shall be available to all Retailers and Retail Consumption Dealers within the Wholesaler's sales territory.

Authority: O.C.G.A. § 3-2-2.

PROPOSED

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**RULES
OF
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ALCOHOL AND TOBACCO DIVISION**

**CHAPTER 560-2-4
WHOLESALE**

560-2-4-.08 Inventories – Wholesaler.

- This Rule provides that every licensed wholesaler shall prepare a report at the close of business on January 31 and July 31 of each year, that sets forth the total liters of distilled spirits and alcohol on hand.
- This Rule also provides that a detailed record (broken down by brand, type and size) of the physical inventories must be available at all times at the wholesaler's licensed premises.
- This Rule provides for grammatical changes.
- This Rule provides for changes in the Code.
- This Rule was adopted in 1993.

**RULES
OF
DEPARTMENT OF REVENUE
ALCOHOL AND TOBACCO DIVISION**

**CHAPTER 560-2-4
WHOLESALER**

560-2-4-.08 Inventories - Wholesaler.

(1) Every licensed Wholesaler shall prepare a report, on such form as the Commissioner may prescribe, setting forth the total liters by tax category of Distilled Spirits, Malt Beverages and Wine on hand as of close of business January 31 and July 31 of each year, and at any other time as directed by the Commissioner or by any authorized agent of the Commissioner.

(a) Malt Beverage reports should also specify total containers by size.

(2) The Wholesaler shall file the report with the Commissioner no later than ten (10) days following taking of the inventory.

(a) A detailed record of the physical inventories, broken down by Brand, Brand Label, type and size must be available at all times at the Wholesaler's licensed Premises for verification by employees of the Commissioner.

Authority: O.C.G.A. § 3-2-2.

SYNOPSIS

**RULES
OF
DEPARTMENT OF REVENUE
ALCOHOL AND TOBACCO DIVISION**

**CHAPTER 560-2-4
WHOLESALE**

**560-2-4-.09 Audits; Assignment of Auditors; Due Cause –
Wholesaler.**

- This Rule provides that upon receipt of reliable information that a licensed wholesale malt beverage dealer has failed to remit local taxes in a timely business like fashion, the Commissioner may conduct an inquiry into that dealers records and transactions.
- This Rule provides that upon discovery of a discrepancy in a dealers records or transactions, the Commissioner shall report findings to any applicable taxing jurisdiction and may order that dealer to show cause why his license should not be suspended or revoked or have other penalties assessed.
- This Rule provides for grammatical changes.
- This Rule provides for changes in the Code.
- This Rule was adopted in 1982.

**RULES
OF
DEPARTMENT OF REVENUE
ALCOHOL AND TOBACCO DIVISION**

**CHAPTER 560-2-4
WHOLESALE**

560-2-4-.09 Audits; Assignment of Auditors; Due Cause - Wholesaler.

(1) In addition to the audits provided for in Rule 560-2-7-.02, the Commissioner may, upon receipt of information he deems reliable, tending to show that a licensed Wholesaler has failed to account for and remit locally imposed taxes in a timely and businesslike fashion, cause a complete and thorough examination and audit of that Wholesaler's records and the entire business transactions by auditors and investigators of the Department, for the purposes of determining that:

(a) Each taxing jurisdiction has been properly paid the taxes as required.

(b) All applicable state taxes have been paid on each business transaction.

(2) Upon discovery of any discrepancy, the Commissioner shall report any findings to any and all taxing jurisdictions concerned; and

(a) The Commissioner may order the Wholesaler to show cause as to why the Wholesaler's license should not be suspended or revoked, or have other penalties imposed.

(3) The Department shall make available to any local taxing jurisdiction all:

(a) Excise tax reports;

(b) Audit briefs and reports;

(c) Alcoholic Beverage shipment records;

(d) Any other investigative summaries and documents necessary for those taxing jurisdictions to conduct an independent audit of or inquiry into the reports of any licensed Wholesaler.

Authority: O.C.G.A. §§ 3-2-2, 3-2-11 and 3-2-32.

PROPOSED

SYNOPSIS

RULES OF DEPARTMENT OF REVENUE ALCOHOL AND TOBACCO DIVISION

CHAPTER 560-2-4 WHOLESALE

560-2-4.10 Requirements for Salespersons and Representatives of Wholesalers – Wholesaler.

- This Rule provides the requirements for representatives and salespersons of wholesalers.
- This Rule provides that no person may become a representative or salesperson of a licensed wholesaler unless such wholesaler has notified the Department, and the representative or salesperson has completed and filed an application.
- This Rule provides that if any representative or salesperson violates any law or delivers or causes to be delivered, distilled spirits, to an unlicensed place of business, such person must show why their permit should not be revoked.
- This Rule provides for grammatical changes.
- This Rule provides for changes in the Code.
- This Rule was amended in 2007.

**RULES
OF
DEPARTMENT OF REVENUE
ALCOHOL AND TOBACCO DIVISION**

**CHAPTER 560-2-4
WHOLESALE**

**560-2-4.10 Requirements for Salespersons and
Representatives of Wholesalers - Wholesalers.**

(1) No person shall be a salesperson or Representative of a licensed Wholesaler unless:

(a) The employing Wholesaler has notified the Department of the person's appointment as a salesperson or Representative;

(b) The salesperson or Representative has completed and filed, under oath, an application for a permit in the form prescribed by the Commissioner;

(c) The Representative for a Distilled Spirits Wholesaler has paid the permit fee of ten dollars (\$10.00).

(c) The salesperson or Representative has received the permit for which the application is made from the Commissioner.

(d) The permit shall expire upon written notice to the Commissioner by the Wholesaler that it no longer employs the salesperson or Representative.

(2) It shall be a violation of this Regulation for a salesperson or Representative of a licensed Wholesaler to:

(a) Engage in any activity that is in violation of the laws or regulations of any federal, state, county or municipal governing authority, or regulatory agency; and/or

(b) Cause Alcoholic Beverages to be delivered to an unlicensed place of business.

(3) A salesperson or Representative of a licensed Wholesaler violating these regulations may be cited and ordered to show cause as to why his or her permit should not be suspended or revoked.

(4) The Wholesaler of Distilled Spirits or its Representative is required to pay the permit fee of ten dollars (\$10.00) each year in which the person is employed.

Authority: O.C.G.A. § 3-2-2.

PROPOSED

**RULES
OF
DEPARTMENT OF REVENUE
ALCOHOL AND TOBACCO DIVISION**

**CHAPTER 560-2-4
WHOLESALE**

**560-2-4.11 Warehouse – Hub and Spoke Operations -
Wholesaler.**

(1) With the Department's advance approval, a Wholesaler may utilize leased or owned space as a staging area for the routine transfer of Alcoholic Beverages for delivery within the Wholesaler's designated territory without additional licensing requirements subject to the following requirements:

(a) The Warehouse space must be either owned or leased solely by the Wholesaler;

(b) The Warehouse space is not shared with any other business entity;

(c) The Warehouse space must be located within a jurisdiction that allows the sale and retail consumption of Alcoholic Beverages;

(d) The request for authorization from the Department must contain the street address of the utilized space.

(2) The Wholesaler must attest that:

(a) No business activity will occur at the facility other than the routine transfer of alcohol beverages;

(b) The facility will not be utilized for direct shipments of Alcoholic Beverages from Shippers/Manufacturers to a Wholesaler.

(3) All Alcoholic Beverages transferred at the facility shall be properly invoiced prior to moving to the transfer facility.

(5) At no time will Alcoholic Beverages be allowed to remain at the transfer facility in excess of two (2) consecutive days.

(6) Departmental approvals shall:

(a) Not extend beyond twelve 12 calendar months from the date of approval;

(b) Be renewed annually during the license renewal process;

(c) Be made a part of the Wholesaler's licensing file maintained by the Department;

(d) Require that any changes to the original request must be submitted in writing and approved in advance.

Authority: O.C.G.A. § 3-2-2.

PROPOSED